

Fishery Conservation and Management

§ 660.25

(2) *Causes for decertification.* The decertification official may initiate decertification proceedings when it is alleged that any of the following acts or omissions have been committed:

(i) Failed to satisfactorily perform the specified duties and responsibilities;

(ii) Failed to abide by the specified standards of conduct;

(iii) Upon conviction of a crime or upon entry of a civil judgment for:

(A) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the duties and responsibilities specified in this section;

(B) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(C) Commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the fitness of catch monitors.

(3) *Issuance of IAD.* Upon determination that decertification is warranted, the decertification official will issue a written IAD. The IAD will identify the specific reasons for the action taken. Decertification is effective 30 calendar days after the date on the IAD, unless there is an appeal.

(4) *Appeals.* A certified catch monitor who receives an IAD that suspends or revokes his or her catch monitor certification may appeal the determination within 30 calendar days after the date on the IAD to the Office of Administrative Appeals pursuant to § 679.43.

[75 FR 78380, Dec. 15, 2010, as amended at 76 FR 53835, Aug. 30, 2011; 76 FR 74734, Dec. 1, 2011]

§ 660.20 Vessel and gear identification.

(a) *Vessel identification—(1) Display.* The operator of a vessel that is over 25 ft (7.6 m) in length and is engaged in commercial fishing for groundfish must display the vessel's official number on the port and starboard sides of the deckhouse or hull, and on a weather deck so as to be visible from above. The number must contrast with the background and be in block Arabic numerals at least 18 inches (45.7 cm) high for vessels over 65 ft (19.8 m) long and at least 10 inches (25.4 cm) high for ves-

sels between 25 and 65 ft (7.6 and 19.8 m) in length. The length of a vessel for purposes of this section is the length set forth in USCG records or in state records, if no USCG record exists.

(2) *Maintenance of numbers.* The operator of a vessel engaged in commercial fishing for groundfish must keep the identifying markings required by paragraph (a)(1) of this section clearly legible and in good repair, and must ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

(3) *Commercial passenger vessels.* This section does not apply to vessels carrying fishing parties on a per-capita basis or by charter.

(b) *Gear identification.* Gear identification requirements specific to fisheries using fixed gear (limited entry and open access) are described at § 660.219, subpart E and § 660.319, subpart F.

§ 660.24 Limited entry and open access fisheries.

(a) *General.* All commercial fishing for groundfish must be conducted in accordance with the regulations governing limited entry and open access fisheries, except such fishing by treaty Indian tribes as may be separately provided for.

(b) [Reserved]

§ 660.25 Permits.

(a) *General.* Each of the permits or licenses in this section has different conditions or privileges as part of the permit or license. The permits or licenses in this section confer a conditional privilege of participating in the Pacific coast groundfish fishery, in accordance with Federal regulations in 50 CFR part 660, subparts C through G.

(b) *Limited entry permit—(1) Eligibility and registration—(i) General.* In order for a vessel to be used to fish in the limited entry fishery, the vessel owner must hold a limited entry permit and, through SFD, must register that vessel for use with a limited entry permit. When participating in the limited entry fishery, a vessel is authorized to fish with the gear type endorsed on the limited entry permit registered for use with that vessel, except that the MS

permit does not have a gear endorsement. There are three types of gear endorsements: Trawl, longline, and pot (or trap). All limited entry permits, except the MS permit, have size endorsements; a vessel registered for use with a limited entry permit must comply with the vessel size requirements of this subpart. A sablefish endorsement is also required for a vessel to be used to fish in the primary season for the limited entry fixed gear sablefish fishery, north of 36° N. lat. Certain limited entry permits will also have endorsements required for participation in a specific fishery, such as the MS/CV endorsement and the C/P endorsement.

(ii) *Eligibility.* Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12113 (a) may be issued or may hold a limited entry permit.

(iii) *Registration.* Limited entry permits will normally be registered for use with a particular vessel at the time the permit is issued, renewed, or replaced. If the permit will be used with a vessel other than the one registered on the permit, the permit owner must register that permit for use with the new vessel through the SFD. The re-issued permit must be placed on board the new vessel in order for the vessel to be used to fish in the limited entry fishery.

(A) For all limited entry permits, including MS permits, MS/CV-endorsed permits, and C/P-endorsed permits when they are not fishing in the at-sea whiting fisheries, registration of a limited entry permit to be used with a new vessel will take effect no earlier than the first day of the next major limited entry cumulative limit period following the date SFD receives the change in vessel registration form and the original permit.

(B) For MS permits, MS/CV-endorsed permits, and C/P-endorsed permits when they are fishing in the at-sea whiting fisheries, registration of a limited entry permit to be used with a new vessel will take effect on the date NMFS approves and issues the permit.

(iv) *Limited entry permits indivisible.* Limited entry permits may not be divided for use by more than one vessel.

(v) *Initial administrative determination.* SFD will make a determination regard-

ing permit endorsements, renewal, replacement, change in permit ownership and change in vessel registration. SFD will notify the permit owner in writing with an explanation of any determination to deny a permit endorsement, renewal, replacement, change in permit ownership or change in vessel registration. The SFD will decline to act on an application for permit endorsement, renewal, replacement, or change in registration of a limited entry permit if the permit is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858 (a) and implementing regulations at 15 CFR part 904, subpart D, apply.

(2) *Mothership (MS) permit.* The MS permit conveys a conditional privilege for the vessel registered to it, to participate in the MS fishery by receiving and processing deliveries of groundfish in the Pacific whiting mothership sector. An MS permit is a type of limited entry permit. An MS permit does not have any endorsements affixed to the permit. The provisions for the MS permit, including eligibility, renewal, change of permit ownership, vessel registration, fees, and appeals are described at § 660.150 (f).

(3) *Endorsements*—(i) *“A” endorsement.* A limited entry permit with an “A” endorsement entitles the vessel registered to the permit to fish in the limited entry fishery for all groundfish species with the type(s) of limited entry gear specified in the endorsement, except for sablefish harvested north of 36° N. lat. during times and with gears for which a sablefish endorsement is required. See paragraph (b)(3)(iv) of this section for provisions on sablefish endorsement requirements. An “A” endorsement is affixed to the limited entry permit. The limited entry permit with an “A” endorsement may be registered to another person (*i.e.*, change in permit ownership), or to a different vessel (*i.e.*, change in vessel registration) under paragraph (b)(4) of this section. An “A” endorsement expires on failure to renew the limited entry permit to which it is affixed. An MS permit is not considered a limited entry “A”-endorsed permit.

(ii) *Gear endorsement.* There are three types of gear endorsements: Trawl, longline, and pot (trap). When limited

entry “A”-endorsed permits were first issued, some vessel owners qualified for more than one type of gear endorsement based on the landings history of their vessels. Each limited entry “A”-endorsed permit has one or more gear endorsement(s). Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. While participating in the limited entry fishery, the vessel registered to the limited entry “A”-endorsed permit is authorized to fish the gear(s) endorsed on the permit. While participating in the limited entry, fixed gear primary fishery for sablefish described at § 660.231, a vessel registered to more than one limited entry permit is authorized to fish with any gear, except trawl gear, endorsed on at least one of the permits registered for use with that vessel. Vessels registered to limited entry permits may be used to fish with open access gear, subject to the crossover provisions at § 660.60(h)(7)(ii), except that vessels registered to sablefish-endorsed permits fishing in the sablefish primary season described at § 660.231, may not fish with open access gear against those limits. An MS permit does not have a gear endorsement.

(iii) *Vessel size endorsements*—(A) *General*. Each limited entry “A”-endorsed permit will be endorsed with the LOA for the size of the vessel that initially qualified for the permit, except when permits are combined into one permit to be registered for use with a vessel requiring a larger size endorsement, the new permit will be endorsed for the size that results from the combination of the permits.

(B) *Limitations of size endorsements*. (1) A limited entry permit may be registered for use with a vessel up to 5 ft (1.52 m) longer than, the same length as, or any length shorter than, the size endorsed on the existing permit without requiring a combination of permits or a change in the size endorsement.

(2) The vessel harvest capacity rating for each of the permits being combined is that indicated in Table 3 of subpart C for the LOA (in feet) endorsed on the respective limited entry permit. Harvest capacity ratings for fractions of a foot in vessel length will be determined by multiplying the fraction of a foot in

vessel length by the difference in the two ratings assigned to the nearest integers of vessel length. The length rating for the combined permit is that indicated for the sum of the vessel harvest capacity ratings for each permit being combined. If that sum falls between the sums for two adjacent lengths on Table 3 of subpart C, the length rating shall be the higher length.

(C) *Size endorsement requirements for sablefish-endorsed permits*. Notwithstanding paragraphs (b)(3)(iii)(A) and (B) of this section, when multiple permits are “stacked” on a vessel, as described in paragraph (b)(4)(iii), at least one of the permits must meet the size requirements of those sections. The permit that meets the size requirements of those sections is considered the vessel’s “base” permit, as defined in § 660.11, subpart C. If more than one permit registered for use with the vessel has an appropriate length endorsement for that vessel, NMFS SFD will designate a base permit by selecting the permit that has been registered to the vessel for the longest time. If the permit owner objects to NMFS’ selection of the base permit, the permit owner may send a letter to NMFS SFD requesting the change and the reasons for the request. If the permit requested to be changed to the base permit is appropriate for the length of the vessel, NMFS SFD will reissue the permit with the new base permit. Any additional permits that are stacked for use with a vessel participating in the limited entry fixed gear primary sablefish fishery may be registered for use with a vessel even if the vessel is more than 5 ft (1.5 m) longer or shorter than the size endorsed on the permit.

(iv) *Sablefish endorsement and tier assignment*—(A) *General*. Participation in the limited entry fixed gear sablefish fishery during the primary season north of 36° N. lat., described in § 660.231, Subpart E, requires that an owner of a vessel hold (by ownership or lease) a limited entry permit, registered for use with that vessel, with a longline or trap (or pot) endorsement and a sablefish endorsement. Up to three permits with sablefish endorsements may be registered for use with a single vessel. Limited entry permits

with sablefish endorsements are assigned to one of three different cumulative trip limit tiers, based on the qualifying catch history of the permit.

(1) A sablefish endorsement with a tier assignment will be affixed to the permit and will remain valid when the permit is registered to another permit owner (*i.e.*, change in permit ownership) or to another vessel (*i.e.*, change in vessel registration).

(2) A sablefish endorsement and its associated tier assignment are not separable from the limited entry permit, and therefore, may not be registered to another permit owner (*i.e.*, change in permit ownership) or to another vessel (*i.e.*, change in vessel registration) separately from the limited entry permit.

(B) *Issuance process for sablefish endorsements and tier assignments.* No new applications for sablefish endorsements will be accepted after November 30, 1998. All tier assignments and subsequent appeals processes were completed by September 1998.

(C) *Ownership requirements and limitations.* (1) No partnership or corporation may own a limited entry permit with a sablefish endorsement unless that partnership or corporation owned a limited entry permit with a sablefish endorsement on November 1, 2000. Otherwise, only individual human persons may own limited entry permits with sablefish endorsements.

(2) No individual person, partnership, or corporation in combination may have ownership interest in or hold more than 3 permits with sablefish endorsements either simultaneously or cumulatively over the primary season, except for an individual person, or partnerships or corporations that had ownership interest in more than 3 permits with sablefish endorsements as of November 1, 2000. The exemption from the maximum ownership level of 3 permits only applies to ownership of the particular permits that were owned on November 1, 2000. An individual person, or partnerships or corporations that had ownership interest in 3 or more permits with sablefish endorsements as of November 1, 2000, may not acquire additional permits beyond those particular permits owned on November 1, 2000. If, at some future time, an individual person, partnership, or corpora-

tion that owned more than 3 permits as of November 1, 2000, sells or otherwise permanently transfers (not holding through a lease arrangement) some of its originally owned permits, such that they then own fewer than 3 permits, they may then acquire additional permits, but may not have ownership interest in or hold more than 3 permits.

(3) A partnership or corporation will lose the exemptions provided in paragraphs (b)(3)(iv)(C)(1) and (2) of this section on the effective date of any change in the corporation or partnership from that which existed on November 1, 2000. A “change” in the partnership or corporation is defined at § 660.11, subpart C. A change in the partnership or corporation must be reported to SFD within 15 calendar days of the addition of a new shareholder or partner.

(4) Any partnership or corporation with any ownership interest in a limited entry permit with a sablefish endorsement or in the vessel registered to the permit shall document the extent of that ownership interest with NMFS via the Identification of Ownership Interest Form sent to the permit owner through the annual permit renewal process and whenever a change in permit owner, vessel owner, and/or vessel registration occurs as described at paragraph (b)(4)(iv) and (v) of this section. NMFS will not renew a sablefish-endorsed limited entry permit through the annual renewal process described at paragraph (b)(4)(i) of this section, or approve a change in permit owner, vessel owner, and/or vessel registration unless the Identification of Ownership Interest Form has been completed. Further, if NMFS discovers through review of the Identification of Ownership Interest Form that an individual person, partnership, or corporation owns or holds more than 3 permits and is not authorized to do so under paragraph (b)(3)(iv)(C)(2) of this section, the individual person, partnership or corporation will be notified and the permits owned or held by that individual person, partnership, or corporation will be void and reissued with the vessel status as “unidentified” until the permit owner owns and/or holds a quantity of permits appropriate to the restrictions

and requirements described in paragraph (b)(3)(iv)(C)(2) of this section. If NMFS discovers through review of the Identification of Ownership Interest Form that a partnership or corporation has had a change in membership since November 1, 2000, as described in paragraph (b)(3)(iv)(C)(3) of this section, the partnership or corporation will be notified, NMFS will void any existing permits, and reissue any permits owned and/or held by that partnership or corporation in "unidentified" status with respect to vessel registration until the partnership or corporation is able to register ownership of those permits to persons authorized under this section to own sablefish-endorsed limited entry permits.

(5) A person, partnership, or corporation that is exempt from the owner-on-board requirement may sell all of their permits, buy another sablefish-endorsed permit within one year of the date of approval of the last change in permit ownership, and retain their exemption from the owner-on-board requirements. An individual person, partnership or corporation could only obtain a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation or that have died.

(v) *MS/CV endorsement.* An MS/CV endorsement on a trawl limited entry permit conveys a conditional privilege that allows a vessel registered to it to fish in either the coop or non-coop fishery in the MS Coop Program described at § 660.150. The provisions for the MS/CV-endorsed limited entry permit, including eligibility, renewal, change of permit ownership, vessel registration, combinations, accumulation limits, fees, and appeals are described at § 660.150. Each MS/CV endorsement has an associated catch history assignment (CHA) that is permanently linked as originally issued by NMFS and which cannot be divided or registered separately to another limited entry trawl permit. Regulations detailing this process and MS/CV-endorsed permit combinations are outlined in § 660.150(g)(2).

(vi) *C/P endorsement.* A C/P endorsement on a trawl limited entry permit conveys a conditional privilege that al-

lows a vessel registered to it to fish in the C/P Coop Program described at § 660.160. The provisions for the C/P-endorsed limited entry permit, including eligibility, renewal, change of permit ownership, vessel registration, combinations, fees, and appeals are described at § 660.160(e).

(vii) *Endorsement and exemption restrictions.* "A" endorsements, gear endorsements, sablefish endorsements and sablefish tier assignments, and C/P endorsements may not be registered to another permit owner (i.e., change in permit ownership or ownership interest) or to another vessel (i.e., change in vessel registration) separately from the limited entry permit. At-sea processing exemptions, specified at paragraph (b)(6) of this section, are associated with the vessel and not with the limited entry permit and may not be registered to another permit owner or to another vessel without losing the exemption.

(4) *Limited entry permit actions—renewal, combination, stacking, change of permit owner or vessel owner, and change in vessel registration.*—(i) *Renewal of limited entry permits and gear endorsements.* (A) Limited entry permits expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to remain in force the following year.

(B) Notification to renew limited entry permits will be issued by SFD prior to September 15 each year to the permit owner's most recent address in the SFD record. The permit owner shall provide SFD with notice of any address change within 15 days of the change.

(C) Limited entry permit renewal requests received in SFD between November 30 and December 31 will be effective on the date that the renewal is approved. A limited entry permit that is allowed to expire will not be renewed unless the permit owner requests reissuance by March 31 of the following year and the SFD determines that failure to renew was proximately caused by illness, injury, or death of the permit owner.

(D) Limited entry permits with sablefish endorsements, as described at paragraph (b)(3)(iv) of this section, will not be renewed until SFD has received

complete documentation of permit ownership as required under paragraph (b)(3)(iv)(C)(4) of this section.

(E) Limited entry permits with an MS/CV endorsement or an MS permit, will not be renewed until SFD has received complete documentation of permit ownership as required under § 660.150(g) and § 660.150(f) of subpart D, respectively.

(F) A limited entry permit will not be renewed until a complete economic data collection form is submitted as required under § 660.113(b), (c) and (d), subpart D. The permit renewal will be marked incomplete until the required information is submitted.

(G) An MS permit or a limited entry permit with a C/P endorsement will not be renewed, if it was the permit owner that failed to pay, until payment of all cost recovery program fees required pursuant to § 660.115 has been made. The IAD, appeals, and final decision process for the cost recovery program is specified at § 660.115(d)(3)(ii).

(ii) *Combining limited entry “A” permits.* Two or more limited entry permits with “A” gear endorsements for the same type of limited entry gear may be combined and reissued as a single permit with a larger size endorsement as described in paragraph (b)(3)(iii) of this section.

(A) *Sablefish-endorsed permit.* With respect to limited entry permits endorsed for longline and pot (trap) gear, a sablefish endorsement will be issued for the new permit only if all of the permits being combined have sablefish endorsements. If two or more permits with sablefish endorsements are combined, the new permit will receive the same tier assignment as the tier with the largest cumulative landings limit of the permits being combined.

(B) *MS/CV-endorsed permit.* When an MS/CV-endorsed permit is combined with another MS/CV-endorsed permit or with another limited entry trawl permit with no MS/CV or C/P endorsement, the resulting permit will be MS/CV-endorsed with the associated CHA as specified at § 660.150(g)(2)(iv) and (v). If an MS/CV-endorsed permit is combined with a C/P-endorsed permit, the MS/CV endorsement and CHA will not be reissued on the combined permit.

(C) *C/P-endorsed permit.* A C/P-endorsed permit that is combined with a limited entry trawl permit that is not C/P-endorsed will result in a single C/P-endorsed permit with a larger size endorsement. An MS/CV endorsement on one of the permits being combined will not be reissued on the resulting permit.

(iii) *Stacking limited entry permits.* “Stacking” limited entry permits, as defined at § 660.11, subpart C, refers to the practice of registering more than one sablefish-endorsed permit for use with a single vessel. Only limited entry permits with sablefish endorsements may be stacked. Up to 3 limited entry permits with sablefish endorsements may be registered for use with a single vessel during the primary sablefish season described at § 660.231, subpart E. Privileges, responsibilities, and restrictions associated with stacking permits to fish in the primary sablefish fishery are described at § 660.231, subpart E and at paragraph (b)(3)(iv) of this section.

(iv) *Changes in permit owner and/or vessel owner—(A) General.* Change in permit owner and/or vessel owner applications must be submitted to NMFS with the appropriate documentation described at paragraphs (b)(4)(vii) and (viii) of this section. The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit owner has been registered with and approved by NMFS. NMFS will not approve a change in permit owner for a limited entry permit with a sablefish endorsement that does not meet the ownership requirements for such permit described at paragraph (b)(3)(iv)(C) of this section. NMFS will not approve a change in permit owner for a limited entry permit with an MS/CV endorsement or an MS permit that does not meet the ownership requirements for such permit described at § 660.150(g)(3), and § 660.150(f)(3), respectively. NMFS considers the following as a change in permit owner that would require registering with and approval by NMFS, including but not limited to: Selling the permit to another individual or entity; adding an individual or entity to the legal name on the permit; or removing an individual or entity from the legal name on the permit. A change

in vessel owner includes any changes to the name(s) of any or all vessel owners, as registered with USCG or a state. The new owner(s) of a vessel registered to a limited entry permit must report any change in vessel ownership to NMFS within 30 calendar days after such change has been registered with the USCG or a state licensing agency.

(B) *Effective date.* The change in permit ownership or change in the vessel holding the permit will be effective on the day the change is approved by NMFS, unless there is a concurrent change in the vessel registered to the permit. Requirements for changing the vessel registered to the permit are described at paragraph (b)(4)(v) of this section.

(C) *Sablefish-endorsed permits.* If a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new permit owner or vessel owner during the primary sablefish season described at § 660.231 (generally April 1 through October 31), the initial permit owner must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or vessel owner must sign the application form acknowledging the amount of landings to date given by the initial permit owner. This certified amount should match the total amount of primary season sablefish landings reported on state landing receipts. As required at § 660.12(b), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

(D) *Change in MS/CV endorsement registration.* The requirements for a change in MS/CV endorsement registration between limited entry trawl permits are specified at § 660.150(g)(2)(iv).

(v) *Changes in vessel registration of limited entry permits and gear endorsements—(A) General.* A permit may not

be used with any vessel other than the vessel registered to that permit. For purposes of this section, a permit change in vessel registration occurs when, through SFD, a permit owner registers a limited entry permit for use with a new vessel. Permit change in vessel registration applications must be submitted to SFD with the appropriate documentation described at paragraph (b)(4)(vii) of this section. Upon receipt of a complete application, and following review and approval of the application, the SFD will reissue the permit registered to the new vessel. Applications to change vessel registration on limited entry permits with sablefish endorsements will not be approved until SFD has received complete documentation of permit ownership as described at paragraph (b)(3)(iv)(C)(4) and as required under paragraph (b)(4)(vii) of this section. Applications to change vessel registration on limited entry permits with trawl endorsements or MS permits will not be approved until SFD has received complete EDC forms as required under § 660.114, subpart D.

(B) *Application.* Change in vessel registration applications must be submitted to NMFS with the appropriate documentation described at paragraphs (b)(4)(vii) and (viii) of this section. At a minimum, a permit owner seeking to change vessel registration of a limited entry permit shall submit to NMFS a signed application form and his/her current limited entry permit before the first day of the cumulative limit period in which they wish to fish. If a permit owner provides a signed application and current limited entry permit after the first day of a cumulative limit period, the permit will not be effective until the succeeding cumulative limit period. NMFS will not approve a change in vessel registration until it receives a complete application, the existing permit, a current copy of the USCG 1270, and other required documentation.

(C) *Effective date.* Changes in vessel registration on permits will take effect no sooner than the first day of the next major limited entry cumulative limit period following the date that SFD receives the signed permit change in vessel registration form and the original

limited entry permit, except that changes in vessel registration on MS permits and C/P-endorsed permits will take effect immediately upon reissuance to the new vessel, and a change in vessel registration on MS/CV-endorsed permits will take effect immediately upon reissuance to the new vessel only on the second change in vessel registration for the year. No change in vessel registration is effective until the limited entry permit has been reissued as registered with the new vessel.

(D) *Sablefish-endorsed permits.* If a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new vessel during the primary sablefish season described at §660.231 (generally April 1 through October 31), the initial permit owner must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or vessel owner associated with the new vessel must sign the application form acknowledging the amount of landings to date given by the initial permit owner. This certified amount should match the total amount of primary season sablefish landings reported on state landing receipts. As required at §660.12(b), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

(vi) *Restriction on frequency of changes in vessel registration—(A) General.* A permit owner may designate the vessel registration for a permit as “unidentified,” meaning that no vessel has been identified as registered for use with that permit. No vessel is authorized to use a permit with the vessel registration designated as “unidentified.” A vessel owner who removes a permit from his vessel and registers that permit as “unidentified” is not exempt from VMS requirements at §660.14, sub-

part C unless specifically authorized by that section. When a permit owner requests that the permit’s vessel registration be designated as “unidentified,” the transaction is not considered a change in vessel registration for purposes of this section. Any subsequent request by a permit owner to change from the “unidentified” status of the permit in order to register the permit with a specific vessel will be considered a change in vessel registration and subject to the restriction on frequency and timing of changes in vessel registration.

(B) *Limited entry fixed gear and trawl-endorsed permits (without MS/CV or C/P endorsements).* Limited entry fixed gear and trawl-endorsed permits (without MS/CV or C/P endorsements) may not be registered for use with a different vessel more than once per calendar year, except in cases of death of a vessel owner or if the vessel registered to the permit is totally lost as defined in §660.11. The exception for death of a vessel owner applies for a vessel owned by a partnership or a corporation if the person or persons with at least 50 percent of the ownership interest in the entity dies.

(C) *Limited entry MS permits and limited entry permits with an MS/CV or a C/P endorsement.* Limited entry MS permits and limited entry permits with an MS/CV or a C/P endorsement may be registered to another vessel up to two times during the fishing season as long as the second change in vessel registration is back to the original vessel. The original vessel is either the vessel registered to the permit as of January 1, or if no vessel is registered to the permit as of January 1, the original vessel is the first vessel to which the permit is registered after January 1. After the original vessel has been established, the first change in vessel registration would be to another vessel, but any second change in vessel registration must be back to the original vessel. For an MS/CV-endorsed permit on the second change in vessel registration back to the original vessel, that vessel must be used to fish exclusively in the MS Coop Program described §660.150, and declare in to the limited entry mid water trawl, Pacific whiting

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mothership sector as specified at § 660.13(d)(5)(iv).

(vii) *Application and supplemental documentation.* Permit owners may request a change in vessel registration and/or change in permit owner or vessel owner by submitting a complete application form. In addition, a permit owner applying for a change in vessel registration and/or change in permit owner of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. If a change in vessel owner occurs, the new vessel owner has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

(A) For a request to change a vessel registration and/or change a permit owner or vessel owner, the permit owner must provide NMFS with a current copy of the USCG Form 1270 for vessels of 5 net tons or greater, or a current copy of a state registration form for vessels under 5 net tons.

(B) For a request to change a vessel registration and/or change a permit owner or vessel owner for sablefish-endorsed permits with a tier assignment for which a corporation or partnership is listed as permit owner and/or vessel owner, an Identification of Ownership Interest Form must be completed and included with the application form.

(C) For a request to change a permit owner for an MS permit or for a request to change a vessel registration and/or change a permit owner or vessel owner for an MS/CV-endorsed limited entry trawl permit, an Identification of Ownership Interest Form must be completed and included with the application form.

(D) For a request to change the vessel registration to a permit, the permit owner must submit to SFD a current marine survey conducted by a certified marine surveyor in accordance with USCG regulations to authenticate the length overall of the vessel being newly registered with the permit. Marine surveys older than 3 years at the time of the request for change in vessel registration will not be considered "current" marine surveys for purposes of this requirement.

(E) For a request to change a permit's ownership where the current per-

mit owner is a corporation, partnership or other business entity, the applicant must provide to SFD a corporate resolution that authorizes the conveyance of the permit to a new owner and which authorizes the individual applicant to request the conveyance on behalf of the corporation, partnership, or other business entity.

(F) For a request to change a permit's ownership that is necessitated by the death of the permit owner(s), the individual(s) requesting conveyance of the permit to a new owner must provide SFD with a death certificate of the permit owner(s) and appropriate legal documentation that either: Specifically registers the permit to a designated individual(s); or, provides legal authority to the transferor to convey the permit ownership or to request a change in vessel registration.

(G) For a request to change a permit's ownership that is necessitated by divorce, the individual requesting the change in permit ownership must submit an executed divorce decree that awards the permit to a designated individual(s).

(H) Such other relevant, credible documentation as the applicant may submit, or the SFD or Regional Administrator may request or acquire, may also be considered.

(viii) *Application forms available.* Application forms for a change in vessel registration, permit owner, or vessel owner are available at: NMFS West Coast Region, Sustainable Fisheries Division, ATTN: Fisheries Permit Office, 7600 Sand Point Way NE., Seattle, WA 98115; or http://www.westcoast.fisheries.noaa.gov/fisheries/management/groundfish_permits/limited_entry_permits.html. Contents of the application, and required supporting documentation, are also specified in the application form. Only complete applications will be processed.

(ix) *Records maintenance.* The SFD will maintain records of all limited entry permits that have been issued, renewed, registered, or replaced.

(5) *Small fleet.* (i) Small limited entry fisheries fleets that are controlled by a local government, are in existence as of July 11, 1991, and have negligible impacts on the groundfish resource, may be certified as consistent with the

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goals and objectives of the limited entry program and incorporated into the limited entry fishery. Permits issued under this subsection will be issued in accordance with the standards and procedures set out in the PCGFMP and will carry the rights explained therein.

(ii) A permit issued under this section may be registered only to another vessel that will continue to operate in the same certified small fleet, provided that the total number of vessels in the fleet does not increase. A vessel may not use a small fleet limited entry permit for participation in the limited entry fishery outside of authorized activities of the small fleet for which that permit and vessel have been designated.

(6) *At-sea processing exemptions*—(i) *Sablefish at-sea processing exemption.* As specified at § 660.112(b)(1)(xii) and at 660.212(d)(3), vessels are prohibited from processing sablefish at sea that were caught in the primary sablefish fishery without a sablefish at-sea processing exemption. The sablefish at-sea processing exemption has been issued to a particular vessel and that permit and vessel owner who requested the exemption. The exemption is not part of the limited entry permit. The exemption cannot be registered with any other vessel, vessel owner, or permit owner for any reason. The sablefish at-sea processing exemption will expire upon registration of the vessel to a new owner or if the vessel is totally lost, as defined at § 660.11.

(ii) *Non-whiting at-sea processing exemption.* As specified at § 660.112(b)(1)(xii), vessels are prohibited from processing non-whiting groundfish at sea that were caught in the Shorebased IFQ Program without a non-whiting at-sea processing exemption. A permit and/or vessel owner may get an exemption to this prohibition by applying for the exemption as provided in paragraph (b)(6)(ii)(B) of this section and if his/her vessel meets the exemption qualifying criteria provided in paragraph (b)(6)(ii)(A) of this section. The non-whiting at-sea processing exemption is issued to a particular vessel and that permit and/or vessel owner who requested the exemption. The exemption is not part of the limited

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entry permit. The exemption is not transferable to any other vessel, vessel owner, or permit owner for any reason. The non-whiting at-sea processing exemption will expire upon registration of the vessel to a new owner or if the vessel is totally lost, as defined at § 660.11.

(A) *Qualifying criteria.* A non-whiting at-sea processing exemption will be issued to any vessel registered for use with a limited entry trawl permit that meets the non-whiting at-sea processing exemption qualifying criteria and for which the vessel owner submits a timely and complete application. The qualifying criteria for a non-whiting at-sea processing exemption are that the vessel must have been registered to a limited entry trawl permit, the vessel must have legally processed non-whiting groundfish at sea prior to August 31, 2010, and that the vessel landed that processed catch at a shorebased processor or buyer. The best evidence of a vessel having met these qualifying criteria will be receipts of processed product from shorebased processors, buyers, or exporters, accompanied by the state fish tickets or landings receipts appropriate to the processed product. Documentation showing investment in freezer equipment without also showing evidence of landing processed product is not sufficient evidence to qualify a vessel for a non-whiting at-sea processing exemption. All landings of processed non-whiting groundfish must have been harvested in waters managed under this part. Non-whiting groundfish taken in tribal fisheries or taken outside of the fishery management area, as defined at § 660.10, does not meet the qualifying criteria.

(B) *Application and issuance process for non-whiting at-sea processing exemptions.*

(1) The SFD will mail non-whiting at-sea processing exemption applications to all current trawl permit holders and will make the application available online at <http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Permits/index.cfm>. Permit holders will have until February 15, 2012 to submit applications. A permit holder who believes that their vessel may qualify for the non-whiting at-sea processing exemption must submit evidence with their application showing how their vessel

has met the qualifying criteria described at paragraph (b)(6)(ii)(A) of this section. Paragraph (b)(6)(ii)(C) of this section sets out the relevant evidentiary standards and burden of proof. Applications must be postmarked or hand-delivered no later than close of business February 15, 2012, to NMFS at: NMFS Northwest Region, Sustainable Fisheries Division, ATTN: Fisheries Permit Office—Processing Exemption, 7600 Sand Point Way NE., Seattle, WA 98115.

(2) After receipt of a complete application, the SFD will notify applicants by letter of initial administrative determination (IAD) whether their vessel qualifies for the non-whiting at-sea processing exemption. A person who has been notified by the SFD that their vessel qualifies for a non-whiting at-sea processing exemption will be issued an exemption letter by SFD that must be onboard the vessel at all times.

(3) If an applicant chooses to file an appeal of the IAD letter under paragraph (b)(6)(ii)(B)(2) of this section, the applicant must follow the appeals process outlined at paragraph (g) of this section and, for the timing of the appeals, at paragraph (g)(4)(ii) of this section.

(C) *Evidence and burden of proof.* A permit and/or vessel owner applying for issuance of a non-whiting at-sea processing exemption has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

(1) A copy of the current vessel documentation or registration (USCG or state) is the best evidence of vessel ownership.

(2) A copy of a state fish receiving ticket is the best evidence of a landing and of the type of gear used.

(3) A copy of a state fish receiving ticket, dock receiving ticket, landing receipt, or other written receipt indicating the name of their buyer, the date, and a description of the product form and the name and amount of non-whiting groundfish landed is the best evidence of the commercial transfer of processed product (including glazing).

(4) A copy of a sales receipt is the best evidence of the purchase of freezing equipment.

(5) Such other relevant, credible evidence as the applicant may submit, or the SFD or the Regional Administrator request or acquire, may also be considered.

(c) *Quota share (QS) permit.* A QS permit conveys a conditional privilege to a person to own QS or IBQ for designated species and species groups and to fish in the Shorebased IFQ Program described §660.140, subpart D. A QS permit is not a limited entry permit. The provisions for the QS permit, including eligibility, renewal, change of permit ownership, accumulation limits, fees, and appeals are described at §660.140, subpart D.

(d) *First receiver site license.* The first receiver site license conveys a conditional privilege to a first receiver to receive, purchase, or take custody, control or possession of landings from the Shorebased IFQ Program. The first receiver site license is issued for a person and a unique physical site consistent with the terms and conditions required to account for and weigh the landed species. A first receiver site license is not a limited entry permit. The provisions for the First Receiver Site License, including eligibility, registration, change of ownership, fees, and appeals are described at §660.140(f), subpart D.

(e) *Coop permit*—(1) *MS coop permit.* An MS coop permit conveys a conditional privilege to an eligible coop entity to receive and manage a coop's allocation of designated species and species groups. An MS coop permit is not a limited entry permit. The provisions for the MS coop permit, including eligibility, annual registration, fees, and appeals are described in the MS Coop Program at §660.150, subpart D.

(2) *C/P coop permit.* A C/P coop permit conveys a conditional privilege to an eligible coop entity to receive and manage a coop's allocation of designated species and species groups. A C/P coop permit is not a limited entry permit. The provisions for the C/P coop permit, including eligibility, annual registration, fees, and appeals are described in the C/P Coop Program at §660.160, subpart D.

(1) *MS coop permit.* [Reserved]

(2) *C/P coop permit.* [Reserved]

(f) *Permit fees.* The Regional Administrator is authorized to charge fees to cover administrative expenses related to issuance of permits including initial issuance, renewal, permit registration, vessel registration, replacement, and appeals. The appropriate fee must accompany each application.

(g) *Permit appeals process*—(1) *General.* For permit actions, including issuance, renewal, change in vessel registration and/or change in permit owner or vessel owner, and endorsement upgrade, the Assistant Regional Administrator for Sustainable Fisheries will make an IAD on the action. In cases where the applicant disagrees with the IAD, the applicant may appeal that decision. Final decisions on appeals of IADs regarding issuance, renewal, change in vessel registration and/or change in permit owner or vessel owner, and endorsement upgrade, will be made in writing by the Regional Administrator acting on behalf of the Secretary of Commerce and will state the reasons therefore. This section describes the procedures for appealing the IAD on permit actions made in this title under subparts C through G of part 660. Additional information regarding appeals of an IAD related to the trawl rationalization program is contained in the specific program sections under subpart D of part 660.

(2) *Who May Appeal?* Only a person who received an IAD that disapproved any part of their application may file a written appeal. For purposes of this section, such person will be referred to as the “applicant.”

(3) *Submission of appeals.* (i) The appeal must be in writing, must allege credible facts or circumstances to show why the criteria in this subpart have been met, and must include any relevant information or documentation to support the appeal.

(ii) Appeals must be mailed or faxed to: National Marine Fisheries Service, Northwest Region, Sustainable Fisheries Division, ATTN: Appeals, 7600 Sand Point Way NE., Seattle, WA, 98115; Fax: 206-526-6426; or delivered to National Marine Fisheries Service at the same address.

(4) *Timing of appeals.* (i) For permit actions related to the application and initial issuance process for QS permits,

MS permits, MS/CV endorsements, and C/P endorsements for the trawl rationalization program listed in subpart D of part 660, if an applicant appeals an IAD, the appeal must be postmarked, faxed, or hand delivered to NMFS no later than 60 calendar days after the date on the IAD. If the applicant does not appeal the IAD within 60 calendar days, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(ii) For all other permit actions, if an applicant appeals an IAD, the appeal must be postmarked, faxed, or hand delivered to NMFS no later than 30 calendar days after the date on the IAD. If the applicant does not appeal the IAD within 30 calendar days, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(iii) The time period to submit an appeal begins with the date on the IAD. If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period will extend to the close of business on the next business day.

(5) *Address of record.* For purposes of the appeals process, NMFS will establish as the address of record, the address used by the applicant in initial correspondence to NMFS. Notifications of all actions affecting the applicant after establishing an address of record will be mailed to that address, unless the applicant provides NMFS, in writing, with any changes to that address. NMFS bears no responsibility if a notification is sent to the address of record and is not received because the applicant’s actual address has changed without notification to NMFS.

(6) *Decisions on appeals.* (i) For the appeal of an IAD related to the application and initial issuance process for the trawl rationalization program listed in subpart D of part 660, the Regional Administrator shall appoint an appeals officer. After determining there is sufficient information and that all procedural requirements have been met, the appeals officer will review the record and issue a recommendation on the appeal to the Regional Administrator, which shall be advisory only. The recommendation must be based solely on the record. Upon receiving the findings

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and recommendation, the Regional Administrator shall issue a final decision on the appeal acting on behalf of the Secretary of Commerce in accordance with paragraph (g)(6)(ii) of this section.

(ii) *Final decision on appeal.* The Regional Administrator will issue a written decision on the appeal which is the final decision of the Secretary of Commerce.

(7) *Status of permits pending appeal.* (i) For all permit actions, except those actions related to the application and initial issuance process for the trawl rationalization program listed in subpart D of part 660, the permit registration remains as it was prior to the request until the final decision has been made.

(ii) For permit actions related to the application and initial issuance process for the trawl rationalization program listed in subpart D of part 660, the status of permits pending appeal is as follows:

(A) For permit and endorsement qualifications and eligibility appeals (i.e., QS permit, MS permit, MS/CV endorsement, C/P endorsement), any permit or endorsement under appeal after December 31, 2010 may not be used to fish in the Pacific Coast groundfish fishery until a final decision on the appeal has been made. If the permit or endorsement will be issued, the permit or endorsement will be effective upon approval, except for QS permits, which will be effective at the start of the next fishing year.

(B) For a QS or IBQ amount for specific IFQ management unit species under appeal, the QS or IBQ amount for the IFQ species under appeal will remain as the amount assigned to the associated QS permit in the IAD). The QS permit may be used to fish in the Pacific Coast groundfish fishery with the QS or IBQ amounts assigned to the QS permit in the IAD. Once a final decision on the appeal has been made and if a revised QS or IBQ amount for a specific IFQ species will be assigned to the QS permit, the additional QS or IBQ amount associated with the QS permit will be effective at the start of the next calendar year following the final decision.

(C) For a Pacific whiting catch history assignment associated with an MS/CV endorsement under appeal, the

catch history assignment will remain as that previously assigned to the associated MS/CV-endorsed limited entry permit in the IAD). The MS/CV-endorsed limited entry permit may be used to fish in the Pacific Coast groundfish fishery with the catch history assigned to the MS/CV-endorsed permit in the IAD. Once a final decision on the appeal has been made, and if a revised catch history assignment will be issued, the additional Pacific whiting catch history assignment associated with the MS/CV endorsement will be effective at the start of the next calendar year following the final decision.

(h) *Permit sanctions.* (1) All permits and licenses issued or applied for under Subparts C through G are subject to sanctions pursuant to the Magnuson-Stevens Act at 16 U.S.C. 1858(g) and 15 CFR part 904, subpart D.

(2) All Shorebased IFQ Program permits (QS permit, first receiver site license), QS accounts, vessel accounts, and MS Coop Program permits (MS permit, MS/CV-endorsed permit, and MS coop permit), and C/P Coop Program permits (C/P-endorsed permit, C/P coop permit) issued under subpart D:

(i) Are considered permits for the purposes of 16 U.S.C. 1857, 1858, and 1859;

(ii) May be revoked, limited, or modified at any time in accordance with the Magnuson-Stevens Act, including revocation if the system is found to have jeopardized the sustainability of the stocks or the safety of fishermen;

(iii) Shall not confer any right of compensation to the holder of such permits, licenses, and accounts if it is revoked, limited, or modified;

(iv) Shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(v) Shall be considered a grant of permission to the holder of the permit, license, or account to engage in activities permitted by such permit, license, or account.

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